DOCUMENT RESUME

ED 298 618 EA 020 275

AUTHOR McGee, Jerry C.
TITLE AIDS in Schools.
PUB DATE 88
NOTE 9p.
PUB TYPE Viewpoints (120) -- Guides - Non-Classroom Use (055)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Acquired Immune Deficiency Syndrome; *Communicable Diseases; Court Litigation; Elementary Secondary Education; *Handicap Discrimination; *Legal Responsibility; Public Schools; *School Responsibility; *Special Programs
IDENTIFIERS *Texas

ABSTRACT

Acquired immune deficiency syndrome (AIDS) has become an issue that schools must understand, especially in terms of the legal requirements of educating students who contract this disease. In a review of some recent court cases involving children with AIDS, this paper focuses on how to educate these children. Under the Rehabilitation Act of 1973, section 504, AIDS is considered a handicapping condition. As such, the children have the right to attend public school, with any special accommodations that are necessary. Also, under the 14th Amendment, the court's policy is that excluding students who are known to have AIDS from a free and public education is a denial of equal protection. Several alternatives to the education of these children are discussed. Home schooling, isolation in separate classrooms, and efforts at inservice education for staff and parents have all been tried. The Texas Administrative Code has determined what requirements each school must meet and these are also explained. (LMS)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
X This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

A.I.D.S. IN SCHOOLS

by: Dr. Jerry C. McGee
Associate Professor
Sam Houston State University

1988

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Jerry C. McGee
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

ED298618

Children have the right to a free, public education under Texas Law. The public school systems deliver a program for children ranging from highly gifted to those severely mentally retarded. In addition, teachers soothe hurt feelings, serve as a friend and provide simple medical assistance, such as band-aids, and tissues for runny noses. Educators are daily exposed to colds and viruses, cuts and body liquids. This responsibility is usually administered with care towards children. Over the past few years concern has mixed with care. This concern is called A.I.D.S.-Acquired Immune Deficiency Syndrome.

A.I.D.S. is a disease that many people originally felt immune from. The first A.I.D.S. cases reported seemed related to homosexuals and drug users that shared needles. However, this group no longer maintains such exclusiveness. This fatal disease is now a major concern for everyone. A.I.D.S. is not as selective as the public originally believed. It can be transmitted in a heterosexual relationship, as well as a homosexual relationship. It can also be transmitted from an infected mother to a fetus while she is pregnant.[1] This disease can also lie dormant for ten years. The only ways of being infected by the A.I.D.S. virus are through sexual contact with an infected person, through the injection of infected blood, use of infected needles, or through transmission from mother to child

EA 020 275

BEST COPY AVAILABLE

during pregnancy or birth.[2]

The A.I.D.S. virus is difficult to contract, but children are not automatically excluded from risk. No cases are known or suspected to have been transmitted from one child to another in school, day care, or foster care settings. Transmission would require direct exposure of a child's bloodstream to blood from an effected child.[3] However, a child may enroll in a school and have A.I.D.S.

The problem begins with infected children that have a life-threatening, communicable disease. It's not that easy to contract, yet they become lepers of modern society. The first A.I.D.S. cases reported in Texas only go back a few short years.[4] Symptoms may or may not be noticeable in school.

The Texas Constitution requires the legislature to provide for the education of all children in the state. Also, the Texas compulsory school attendance law does not excuse students with chronic illnesses from compulsory school attendance laws.[5] In August of 1985, the Center for Disease Control recommended that infected school-age children should be permitted to attend school in an unrestricted setting unless they; (1) are not toilet trained or are incontinent, (2) are unable to control drooling, (3) are unusually physically aggressive, with a documented history of biting or harming others, or (4) have open sore or skin eruptions which cannot be covered.[6] However, it was also stated that each case is isolated and should be viewed as such. It is easy to see why A.I.D.S. raises an array of legal issues like no other disease in the recent past, and concern is

accelerating dramatically.[7]

The question policy-makers have had to deal with is not whether to educate A.I.D.S. infected children, but how to educate them. Under the Fourteenth Amendment, excluding students from a free and public education who are known to have A.I.D.S., is a denial to equal protections. Section 504 of the Federal Rehabilitation Act of 1973, which deals with the rights of the handicapped child, includes children with A.I.D.S. as handicapped and prohibits discrimination of these students.

A.I.D.S. applies under Section 504 because destruction by the disease of the body causes a physical impairment. Since evidence can't be provided showing that A.I.D.S. can be transmitted in the classroom, exclusion from school is not legal. All of this was a finding in District Case 27 Community School Board v. The Board of Education of the City of New York.[8] In this case A.I.D.S. was termed a handicapping condition because of its destruction to the body.

A surprising contrast to the District 27 Case was issued by the Justice Department regarding health care workers who have A.I.D.S. or A.R.C., or who are asymptomatic carriers. The memorandum issued stated that the mere ability to transmit the disease does not make an asymptomatic carrier a handicapped person under the Act. The Justice Department stated that the carrier doesn't have a mental or physical impairment. This impairment does not limit a person from any major life activities listed under Section 504 which are performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or

working.[9]

A popular case that has been the precedent of many decisions on A.I.D.S. has been the Arline v. School Board of Nassau. The woman involved had tuberculosis. She was terminated after three relapses of TB., which is a contagious disease. The court concluded that her disease caused her to be handicapped within the meaning of the Rehabilitation Act. She was able to return to work. The case of Children v. Carey supported A.I.D.S. as a handicap. Arline v. School Board of Nassau has laid the foundation for recent decisions.[10]

Even though these cases allow children with A.I.D.S. to attend public school, the emotional strain imposed upon a child is devastating. For example, Ryan White of Kokomo, Indiana returned to school after a winter break, after being diagnosed with A.I.D.S., was greeted first by picketers, then a court order barring the hemophiliac from the school grounds. He was reinstated to school, but this happened only by force, not by community acceptance. When Ryan did return to school thirty students' parents took them out of school.[11]

In Dade county, Florida, three 7-year old girls with A.I.D.S., were attending school, but in a separate classroom that the board rented in an unnamed facility. Teachers of these victims have been guaranteed total anonymity, as well as periodic health examinations.[12]

In Hubart, Indiana, teachers volunteered to work with an A.I.D.S. victim at home when he was barred from school. The boy subsequently fled from the state and moved to southeastern

Missouri because of reported harassment from other students in the Hobart area. He now attends school in Missouri.[13] Finally, the publicized case of the Ray boys in Arcadia, Florida who are hempohiliacs, and contracted A.I.D.S. through a blood transfusion. Many terrible things happened in their lives, besides the fact that they have A.I.D.S. For example, children began rumors that they could catch A.I.D.S. by standing near the boys, touching them, or fishing with them. The boys were also ganged up-on at school. As a result of this harassment and burning of their home, the parents, both unemployed, moved their family to the Sarasota area.

It seems anytime an issue rises regarding education, the public becomes very involved. Actually, the number of children with A.I.D.S. is small. Of the first 20,000 cases in the U.S.A., fewer than 300 were children under 13 years old.[14] Children that have A.I.D.S. or other illnesses, risk suffering severe complications from infections commonly picked up in school or day care centers. These infections include chicken pox, tuberculosis, herpes, measles and other diseases. These children in school should be monitored closely by a physician because they can receive immune globulin following exposure to other infections.[15]

Many Texas schools have developed some management guidelines regarding students or staff with the A.I.D.S. virus. These usually state that district personnel will comply fully with the responsibilities imposed by the Texas Administrative Code (97.1-97.10), local administrative rules and Board policies.

Guidelines usually require any person that is suspected of the disease will contact the building principal or nurse. The nurse will in turn contact the parent to request a doctor's statement of health. When the statement is returned, the diagnosis of positive or negative may not be shared with other school level personnel. The school will respect the right of privacy of the individual. That means that the knowledge of the student's condition may not be shared with teachers of other staff. The school nurse will also file a written report of the disease with the County health officials.

Inservice is an important process for campus staff throughout the school year. This includes maids, janitors, teachers, and others dealing with children body liquids.

Most districts are implementing classroom instruction on A.I.D.S.[16] School Boards are developing policies following the law regarding the instruction of students with A.I.D.S., as well as informing staff and students about the facts on A.I.D.S.[17]

A.I.D.S. is an issue that has alarmed the public and may continue to do so until a cure is found. Educators have the responsibility of educating and being fair to any student with A.I.D.S. The sad part is that children with A.I.D.S. are victims of society and the schools have another challenge.

NOTES

1. Senior Science Advisory Group of the Health Information Newwork, "The Facts About A.I.D.S.", A Special Guide For NEA Members, p.5

2. Ibid., pg.5

3. Ibid., pg. 9

4. Whitley, Tracey, Attorney-at-law, "A.I.D.S. in the Classroom", School Administrators Legal Digest, Oct. 1982, vol. 2, no. 11, pg. 1

5. Ibid., pg. 1

6. Ibid., pg. 1

7. Ibid., pg. 3

8. Ibid., pg. 4

9. Ibid., pgs. 3-4

10. Beckham, Joseph, "The A.I.D.S. Dilemma, Recent Court Decision, Place a Burden of Persuasion on Public Schools", NAASP Bulletin, April 1987, pgs. 91-95.

11. Levine, Jor, "A.I.D.S. Prejudice and Progress", Time, September 8, 1986, vol. 128, pg. 25.

12. Reed, Sally, "A.I.D.S. in the Schools: A Special Report", Phi Delta Kappan, vol. 67, Issue 7, March 1986, pg. 495.

13. Voboril, Mary, "The Castaways, Fears About A.I.D.S. Drive Three Boys From Home", Life, Oct. 1987, pgs. 99-100.

14. American Red Cross, "A.I.D.S. and Children Information for Teachers and School Officials", Latest Facts About A.I.D.S., pg. 1.

15. Spring Independent School District, Management Guidelines on Communicable Diseases: Assessment, Reporting, and Confidentiality, Procedures, pgs. 1-3.

16. Spring Independent School District Memorandum, Summary of Spring I.S.D. Response to A.I.D.S., April 2, 1987, pg. 1.

17. Harbaugh, Mary and Jane Schall, "Teaching Children About A.I.D.S.", Instructor, Sept. 1987, pgs. 26-28.